

**ADJOINING PROPERTY OWNERS FOR 10459 FREDERICK ROAD**

Howard County Dept. of Public Works  
3430 Courthouse Drive  
Ellicott City, MD 21043  
(24.003)(25.002)  
(43.008)(46.001)  
(43.006) (23.002)(23.001)

Thomas & Eileen Sullivan  
2939 Poland Springs Drive  
Ellicott City, MD 21042-7626  
(23.001)

Ann L. Kaulfuss, Trustee  
13715 Old Rover Road  
West Friendship, MD 21794-9718  
(23.001)

"  
"

## Requested Zoning

**Search Street:**

FREDERICK RD

Next

**Property Information:**

Amendment No.: 23.001

Current Zoning: R-20

Requested Zoning: B-1

Tax Account ID.: 1402223619

Map: 23

Grid: 6

Parcel: 99

Lot:

Acres: 0.846

Address: 10459 FREDERICK RD

City/State/Zip: ELLICOTT CITY, MD 21042

**Owner:**

Name: FRALEY THOMAS MOTT

Email: fraleyleslie@yahoo.com

Phone: 410-465-2506

Mailing Address: 10459 FREDERICK RD

City/State/Zip: ELLICOTT CITY, MD 21042

**Representative:**

Name: E. Alexander Adams

Email: eaa@a-alaw.com

Phone: 410-489-9888

Mailing Address: P.O. Box 358

City/State/Zip: Glenelg, MD 21738

**Decision:**

Planning Board Decision:

Planning Board Vote:

Council Decision:

Council Vote:

# Zoning Map Amendment Request Form

## Howard County Comprehensive Zoning Plan Department of Planning and Zoning

[Handwritten/Typed Version]  
Before filling out this form, please read the  
Instructions section at the end of the form.

### A. Property Information (Please print or type)

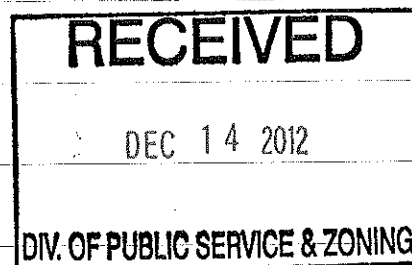
1	Address / Street (Only)	10459	Frederick Rd. (10459 – residence; 10455 – convenience store)		
2	Tax Map Number	23	Grid	6	✓
3	Parcel(s)	99 ✓			
4	Lot(s)	N/A			
5	Tax Account Data:	District	02	Account #	223619 ✓

6	Size of Property:	Acres		Square feet	36,851
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7	The Property is currently zoned:	R20	✓
	I request that the Property be rezoned to:	B-1 (see drawing – 1 acre)	

### B. Owner Information

8	Owner Name	Thomas & Leslie Fraley ✓		
9	Mailing street address or Post Office Box	PO Box 7117		
	City, State	Ellicott City, MD		
	ZIP Code	21042		
	Telephone (Main)	410-465-2506		
	Telephone (Secondary)	410-300-9247		
10	E-Mail	fraleyleslie@yahoo.com		



### C. Representative Information

11	Name	E. Alexander Adams
	Mailing street address or Post Office Box	PO Box 358
	City, State	Glenelg, MD
	ZIP	21738
	Telephone (Main)	410-489-9888
	Telephone (Secondary)	Fax – 410-489-9886
	E-Mail	eea@a-alaw.com
12	Association with Owner	Attorney

**D. Alternate Contact [If Any]**

Name	
Telephone	
E-Mail	

### E. Explanation of the Basis / Justification for the Requested Rezoning

13	<p>The subject property, as reflected in the attached zoning history of technical staff report ZB 1064M, never should've been rezoned from B-2. As reflected on page 6 therefore, the property received an approved NCU 07-003 for general retail use. In the immediate vicinity of the subject property is a 2 left turn lane, arterial intersection (Rt. 40/Rt. 144). Those two left turn lanes direct a significant amount of traffic head-on towards the property 24-7.</p> <p>SEE CONTINUATION SHEET.</p>
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**F. List of Attachments/Exhibits**

- 14
1. Portion of ZB1064M
  2. Lease from Howard County to Howard County Youth Program, Inc.
  3. Howard County Youth Program, Inc.'s tax return
  4. Photos of signs
  5. Photos of parking

**G. Signatures**

15 Owner

Date

*Shirley*  
12-14-2012

Owner (2)

Date

*Leslie D. Traley*  
12-14-2012

☐

Additional owner signatures? **X** the box to the left and attach a separate signature page.

16 Representative  
Signature

Date

*E. Rhonda Brown*  
12-14-12

DPZ Use Only		Amendment No.	23.001
Notes	<i>COH 12/19/12</i>		

Fraley:

#13 (Continuation Sheet)

But the main reason R-20 is an inappropriate zoning category for the subject property is the adjacent annual million-dollar entertainment complex being operated by the Howard County Youth Program, Inc. ("HCYP"), a not-for-profit corporation not connected with Howard County Government or the Department of Parks and Recreational Department. Howard County leases the adjacent 24-acre property to this private corporation. In addition to the million-dollar entertainment recreational facility operated by the HCYP, the County has passed a specific sign ordinance, unique to HCYP which allows advertisers to display large poster advertisements on the playing field fences. The result is the largest outdoor advertising venue in Howard County. The total square footage of advertising signs is also the largest single signage permitted in Howard County.

The constant noise level from the large crowds, parking of hundreds of cars on a daily basis on the adjacent R-20 zoned parcel during the season, repeated car alarms going off on a constant basis, high-intensity industrial lighting on a constant basis, and such public health nuisances as spectators using the fence line between the subject property and the playing field as a public restroom, in the aggregate constitute a public nuisance and substantial ongoing violation of the R-20 zoning regulations for the 24 acres leased to a private entity. Since Howard County Maryland owns the property where this nuisance is occurring on a daily basis during the nine-month season, such actions constitute a publicly sanctioned nuisance contrary to law and contrary to all applicable zoning regulations. Attached hereto is a copy of what is believed to be the current Lease between Howard County and HCYP, the Corporation's tax return showing receipts of approximately \$1 million a year, photographs of the extensive signing unique only to this nonprofit organization and photographs of a public parking lot for this million-dollar entertainment complex, all of which are not permitted uses in a R-20 zoning category.

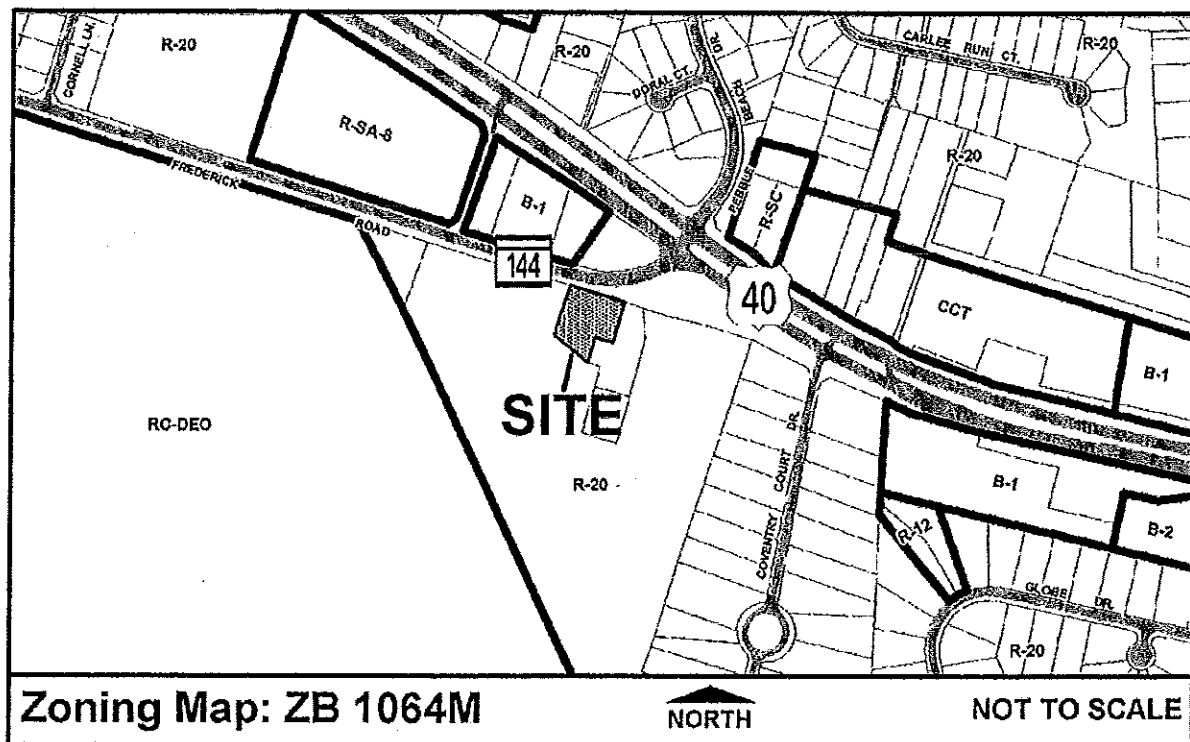
For these reasons Petitioner respectfully requests the property be rezoned to a B-1 zoning category, which is consistent with it's historic and current use, plus B-1 zoning immediately across the street.

**I. DESCRIPTION OF PROPOSAL**

- # The Petitioners proposes a Zoning Map Amendment to rezone the Property from the current R-20 (Residential: Single) District designation to the B-1 (Business: Local) District. As justification for this request, the Petitioners include allegations of both substantial change in the character of the neighborhood ("Change") and mistake in the zoning designation ("Mistake").
- # The Petitioners contend that "...the cumulative effect of changes in the neighborhood have made the residential use and zoning of their property inappropriate...".

Adjoining the Property on the west side, and also to the south and east of the Property and two other lots, is the Kiwanis/Wallas Park (the "Park"), which includes multiple ball fields, parking areas, and accessory buildings.

The Petitioners maintain that the use of the Park by the Howard County Youth Program ("HCYP") has intensified since the 2004 Comprehensive Zoning Plan ("2004 CZP") with the installation of playing field lighting near the Property, and an increase in Park generated traffic due to the extended use of the playing fields, and that the Property is no longer suitable for residential use or zoning due to this intensification.



PETITIONER: Thomas & Leslie Fraley

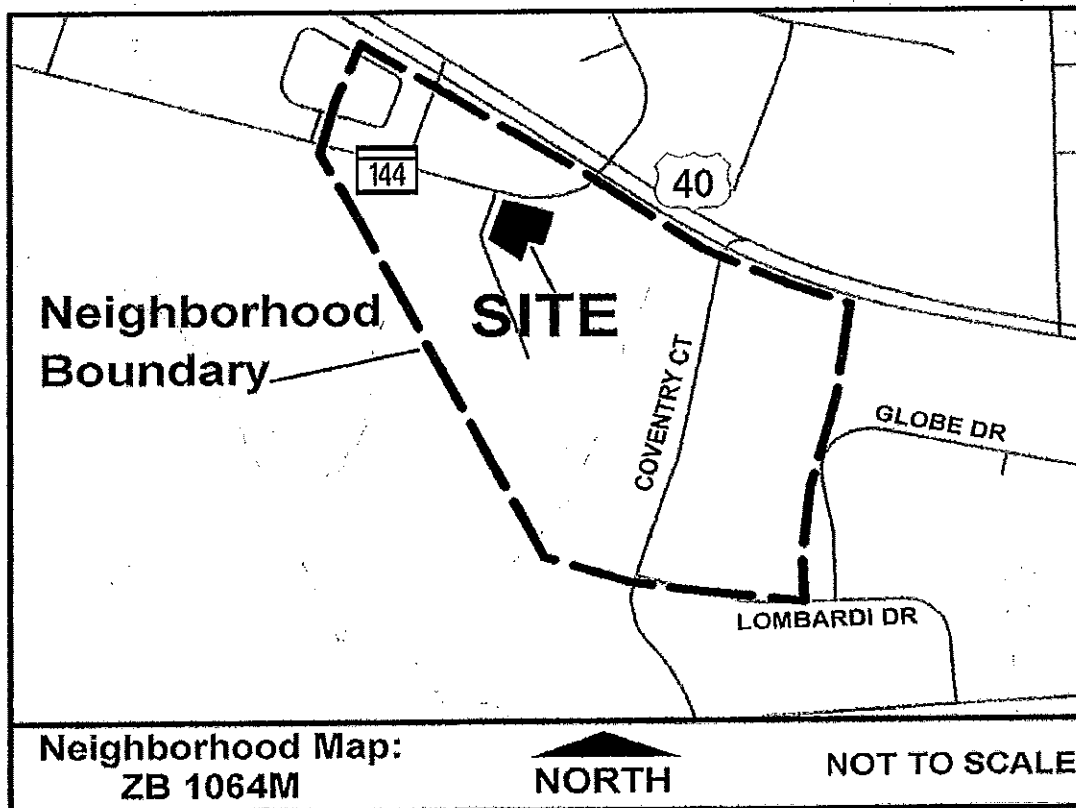
## II. ZONING HISTORY

### A. Subject Property

- # The 1954 Zoning Map depicts the zoning at the US 40 intersection with MD 144 as being zoned B-2 in an area 300 feet from the US 40 right-of-way on both the north and south sides of US 40.

This zoning map is somewhat imprecise because it does not show individual parcels and the scale is such that the entire County is on one sheet, but it is enough to conclude that this B-2 zoning, 300 feet to the south of the US 40 right-of-way, would have included most of the Property.

- # The 1961 Comprehensive Zoning Plan rezoned the Property to R-20 for the first time. A set of 1961 Land Use Maps, relatively recently discovered during the move to the temporary offices of the County government, clearly show that there was a commercial use on the Property at that time.
- # In the 1977 Comprehensive Zoning Plan, the Property was rezoned to the R (Rural) District. This R District zoning was maintained in the 1985 Comprehensive Zoning Plan.





## II. ZONING HISTORY

- # The 1993 Comprehensive Zoning Plan returned the Property to the R-20 District. This R-20 designation was maintained in the 2004 CZP and Comp Lite.
- # On August 21, 2007, the Director of the Department of Planning and Zoning approved NCU 07-003, confirming that an approximately 40 foot by 50 foot frame building with a front porch located at the front of the Property near the MD 144 frontage, and the associated paved parking area around this building, is a valid nonconforming use for a general retail use.

In that case, it was evident that the Petitioners had been operating for many years under the mistaken assumption that their Property was already zoned commercially. This assumption was largely based upon a letter issued by a former DPZ employee in 1973 to a former owner of the Property that stated that the retail commercial use of the Property was legal and valid.

### B. Adjacent Properties

- # All the adjoining properties share the same zoning history as the Property. As noted above, the adjacent Parcels 10, 39 and 96 across MD 144 to the northwest shared this same history up to the time of Comp Lite, when they were rezoned to B-1.

For Parcels 10 and 39, according to the Comp Lite records, both the Route 40 Task Force and the Planning Board recommended medium density residential districts for these parcels instead of the requested commercial zoning. It is noteworthy that the County Council disagreed with these recommendations and rezoned Parcel 10 and 39 to B-1, adding Parcel 96 also to B-1 by means of an amendment.

## III. BACKGROUND INFORMATION

### A. Site Description

- # The Property has an irregular, inverted L-shape. In the northeastern area of the Property is the frame store building and the surrounding paved parking area noted in the section above concerning the nonconforming use confirmation. To the west of this area is an existing single-family detached dwelling which is apparently also used in part for office space according to statements made in the NCU 07-003 case.

In the southeastern area of the Property, behind the store site, is a three-bay detached garage. There is another accessory building in the area generally between this garage and the dwelling. The southwestern area of the Property is predominantly an open lawn located behind the dwelling. The access to the Property from MD 144 is a very wide paved area which directly adjoins the MD 144 paving without a defined entrance or curb and gutter.

**B. Vicinal Properties**

- # All adjoining properties on the south side of MD 144 and US 40 are zoned R-20. To the east of the Property is Parcel 85, which is improved with a building identified as an animal hospital use which was originally approved in the 1960s as Board of Zoning Appeals Case No. 514-C.
- # Adjoining to the south and west is Parcel 73, which is approximately 24 acres and extends around both the Property and Parcel 85. Parcel 73 is owned by Howard County and is known as Kiwanis-Wallas Park, which is used predominantly for many baseball fields. The areas of Parcel 73 to the west of the Property are used for a parking lot, baseball fields, and batting cages. The areas to the south of the Property are used for a parking lot, an equipment building, a pavilion, and additional baseball fields.

The area of the Park to the east, past Parcel 85, is used for more baseball fields and parking areas, one of which may be located within the right-of-way for US 40. At the southeast area is Kiwanis Hall which is used for assembly purposes.

Past Parcel 73 to the west is farmland that is part of Doughoregan Manor. The area that adjoins Parcel 73 is the front portion of a 221 acre site, extending more than one mile to the south and southeast that is the subject of a recently submitted rezoning request, ZB 1087M, to rezone from RC-DEO to R-ED.

- # To the northwest of the Property, across MD 144, are Parcel 10 and Parcel 39, which are zoned B-1 but are not currently used or developed for commercial purposes. To the north of the Property is a partially open and partially wooded, undeveloped area of land that apparently is part of the public right-of-way for the US 40 and MD 144 intersection.

**C. Roads**

- # MD 144 in front of the Property has two west-bound travel lanes merging to one lane, and one east-bound lane expanding to two lanes. There is approximately 52 feet of paving within a variable-width right-of-way.
- # The estimated sight distance from the general location of the paved area in front of the store is over 900 feet to the west and approximately 275 feet to the northeast to the wide intersection of MD 144 and US 40.

Precise sight distance measurements may only be determined through a detailed sight distance analysis, however.

- # According to data from the State Highway Administration, the traffic volume on MD 144 west of US 40 was 8,571 ADT (average daily trips) as of 2007.

## AMENDED AND RESTATED LICENSE AND AGREEMENT

**THIS AMENDED AND RESTATED LICENSE AND AGREEMENT** (this "Agreement"), made this 17th day of April, 2005 by and between **HOWARD COUNTY, MARYLAND**, a body corporate and politic (the "County"), and **THE HOWARD COUNTY YOUTH PROGRAM, INC. ("HCYP")**.

**WHEREAS**, in 1992, the County purchased real property consisting of 23.132 acres, more or less, located in the Second Election District of Howard County, Maryland, shown as parcel 73 on tax map 23, block 6; which is improved by a brick building known as the "Kiwanis-Wallis Recreation Center," a wooden building known as the equipment storage building, a snack bar, parking area, access road, practice area, public restrooms, practice fields and ball fields with fences, lights, dugouts, and bleachers (the "Property").

**WHEREAS**, HCYP is a private, non-profit corporation organized to provide educational and recreational activities for the citizens of Howard County, Maryland.

**WHEREAS**, in 1992, HCYP and the County entered into a License and Agreement dated June 15, 1992 for HCYP to use a portion of the Property for softball and baseball programs for the youth of Howard County, Maryland and to maintain the equipment storage building, snack bar, practice areas, public restrooms and ball fields located on the Property (the "Original Agreement").

**WHEREAS**, HCYP and the County now desire to amend and restate the Original Agreement to permit HCYP to use 170 square feet of the Kiwanis-Wallis Recreation Center, 10481 Frederick Road, for use by HCYP as an administrative office and to extend the term of the Original Agreement to June 15, 2020.

**WHEREAS**, the County Council of Howard County, Maryland adopted Resolution Number 09-2005 authorizing the County to extend the term of the Original Agreement to June 15, 2020 and to waive the formal competitive bidding requirements to allow the County to enter into this Agreement with HCYP to conduct the recreational activities on a portion of the Property.

**NOW, THEREFORE**, in consideration of these premises, the agreements set forth hereinafter, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually covenant and agree to amend and restate the Original Agreement as follows:

1. **PROPERTY DESCRIPTION.** The County is the fee simple owner of the Property being specifically described as parcel 73 on tax map 23, block 6, and consisting of 23.132 acres, more or less, located on the south side of Maryland Route 144 at its intersection with the Baltimore National Pike (U.S. Route 40) in the Second Election District of Howard County, Maryland, which is improved by the Kiwanis-Wallis Recreation Center and ancillary improvements as more particularly described in a deed to the County dated October 18, 1991 from the Kiwanis Club of Ellicott City, Maryland, Incorporated and recorded among the Land Records of Howard County, Maryland in Liber 2412, Folio 171.

2. **GRANT OF LICENSE TO HCYP.** The County hereby permits HCYP the non-

exclusive right to use certain portions of the Property, as hereinafter described, on the condition that HCYP complies with all of the conditions of use set forth in this Agreement. The portions of the Property licensed to HCYP, "as is," for its non-exclusive use, are the ball fields, practice areas, practice fields, equipment storage building, public restrooms, snack bar, parking space (collectively, the "Ball Fields") and a 170 square foot portion of the Kiwanis-Wallis Recreation Center for use as an office (the "Office Area"). The Ball Fields and the Office Area are referred to therein as the Licensed Area and are located as shown on the drawing attached hereto as Exhibit A.

3. LICENSE FEE. In consideration of the right to use the Ball Fields as set forth herein, HCYP shall pay the County an annual license fee of \$1.00. In consideration of the right to use the Office Area as set forth herein, HCYP shall pay the County an annual license fee of \$1,000.00 payable in equal quarterly installments, in advance, beginning January 1, 2005 and which license fee may increase as determined by the County but not more than 7% annually. Each installment of the license fee shall be paid by check to the order of the "Director of Finance for Howard County" and sent to the County at the address below.

4. TERM. This Agreement commenced on June 15, 1992. Under the terms of the Original Agreement, HCYP, with the approval of the County, was entitled to renew the original term of five years for four (4) additional terms of five (5) years each resulting in a termination date of June 15, 2012. As of the date of this Agreement, HCYP and the County, agree that the term shall now lapse on June 15, 2020 unless renewed by the County and HCYP (the "Term"). The County and HCYP may agree to renew this Agreement for up to three (3) successive five (5) year renewal terms for a final termination date of June 15, 2035. Each renewal term shall be exercised automatically unless one party gives the other party sixty (60) days prior written notice of its intention to terminate this Agreement. At anytime after June 30, 2007, HCYP may elect to terminate this Agreement with respect to the Office Area by giving notice to the County at least sixty (60) days in advance in accordance with the Notice provision of this Agreement. Upon the termination of HCYP's use of the Office Area, HCYP shall terminate all telephone and computer services and discontinue any mail service delivery to the Office Area. After such notice period, HCYP's obligation to pay rent for the Office Area shall cease but the license and terms of this Agreement for the Ball Fields shall still continue in full force and effect.

5. CONDITIONS OF USE. HCYP hereby agrees to comply with each of the following Conditions of Use:

a. During the Term of this Agreement, HCYP shall use the Licensed Area exclusively for the purpose of providing softball, baseball, and other recreational and sports activities, as approved by the County, for all youth of Howard County, Maryland ("Recreational Purposes") and the administrative tasks associated with the Recreational Purposes.

b. If, as determined by the County, the Licensed Area shall cease to be used exclusively for Recreational Purposes or activities that support recreation programs or if the usage of the Licensed Area by HCYP jeopardizes the tax exempt status of the bonds sold to finance the acquisition of the Property, then the County shall have the right to immediately terminate this Agreement and to abolish HCYP's use of the Licensed Area, or any portion thereof, without any compensation to HCYP. If HCYP, at any time during the Term of this Agreement, determines to discontinue the use of the Licensed Area, or any portion thereof, for Recreational Purposes, HCYP shall notify the County of its intention to discontinue the

use of the Licensed Area for Recreational Purposes and the County shall have the option to terminate HCYP's use of the Licensed Area, or any portion thereof.

c. If HCYP shall default under any term, condition, or provision of this Agreement, as determined by the County, and such default shall continue for a period of thirty (30) days after written notice thereof, then the County may promptly terminate this Agreement.

d. The County reserves the right to conduct recreational programs on the Licensed Area, when such programs are not in conflict with HCYP's use of the Licensed Area, at such times that HCYP is not using the Licensed Area for Recreational Purposes, and when said programs do not potentially damage the fields maintained by HCYP.

e. At its option, HCYP may arrange for the delivery of HCYP's mail to the Office Area.

f. HCYP shall install, at its expense, any telephone and computer service to the Office Area, subject to the County's approval of the location of any lines and antennae required for such service and upon the termination of HCYP's use of the Office Area, shall remove such service at HCYP's expense.

g. HCYP's use of the Office Area shall not disrupt or interfere with the County's programs and activities at the Kiwanis-Wallis Recreation Center. HCYP shall use its access to the Office Area at any time.

6. HCYP'S RESPONSIBILITIES AND DUTIES. Throughout the Term, HCYP agrees to fulfill each of the responsibilities and duties set forth in this Paragraph 6:

(a) HCYP shall maintain and repair at its sole cost and expense, the Licensed Area in good, sanitary, and safe condition for recreational use by the public as required by the County and State's laws and regulations. HCYP shall maintain the Ball Fields, including but not limited to, fertilizing, seeding, watering, mowing, and marking the grassy areas. HCYP shall maintain the interior of the Office Area (and any windows or doors) in a good, clean, and safe condition at its sole cost. All repairs and maintenance shall be performed by licensed professionals in accordance with the County and State regulations.

(b) All equipment and supplies necessary for the maintenance and operation of the Licensed Area shall be supplied by HCYP. HCYP shall use the Licensed Area for Recreational Purposes without regard to race, religion, creed, national origin or marital status of the participants.

(c) HCYP shall at all times maintain and operate, at its sole cost and expense, the Licensed Area in compliance with all federal, state, and local laws, rules, ordinances, resolutions, statutes, and regulations as well as all easements and restrictive covenants affecting the Property or any part thereof. HCYP shall observe the "Park Land Rules and Regulations" set forth in Section 19.200 et seq. of The Howard County Code.

(d) HCYP shall perform the maintenance and repair items indicated on the County's annual inspection list within ninety (90) days of the date of receipt of such list. HCYP shall repair a schedule of completion of such items and submit the schedule to the County within thirty (30) days of the date of receipt of the list.

(e) HCYP shall not permit any commercial or non-profit organization to operate the snack bar or any other concession in the Licensed Area, unless approved by the County.

(f) HCYP shall not create, maintain, or permit any nuisance in or about the Property and shall not commit or permit any waste of or to the Property.

(g) HCYP shall submit to the County for the County's prior approval, all proposed

plans for improvements, changes, additions, or alterations to the Licensed Area. All such improvements, changes, additions, or alterations shall be performed at the sole cost and expense of HCYP and shall become the property of the County. No improvements, changes, additions, or alterations shall be made to the Licensed Area without the County's prior approval, which may be denied in the County's sole discretion. HCYP shall comply with the County's requirements for development and obtain all local, state, and federal permits at its cost. The proposed changes and stipulations for improvements for the Office Area are set forth in Exhibit B. All improvements to the Kiwanis-Wallis Recreation Center within the Office Area shall remain the property of the County upon the termination of the license for the Office Area.

(h) HCYP shall not assign any of its rights under this Agreement.

(i) HCYP shall promptly and timely pay all charges for trash removal and utilities, including, but not limited to, electricity, water, sewer, septic and gas for the Licensed Area. Notwithstanding the foregoing, the County shall pay the cost of electrical service for the Kiwanis-Wallis Recreation Center if the Office Area is not separately metered and if the Office Area is or becomes separately metered, then HCYP shall pay the cost of electrical service to the Office Area.

(j) HCYP shall allow the public to use the Licensed Area and shall allow the public to participate in the programs organized by HCYP, subject to any reasonable fees charged by HCYP and the rules and regulations including but not limited to, league size as determined by HCYP. Prior to the commencement of any program utilizing the Licensed Area, HCYP shall complete and submit to the County, a facility use permit form.

(k) HCYP shall be responsible for the control, direction, and supervision of its recreation programs and shall be responsible for, inter alia, security, traffic and parking control, and first aid.

(l) Upon termination of this Agreement, HCYP shall remove its personalty from the Licensed Area, including all signs and equipment.

7. COUNTY'S RESPONSIBILITIES AND DUTIES. The County shall maintain the parking area, the access road, and, except for the interior of the Office Area (including any windows and doors), the Kiwanis-Wallis Recreation Center. If any incident of repair or maintenance to the electrical, HVAC, and plumbing systems serving the public restrooms or snack bar are in excess of \$500, then the County shall, to the extent of funds available as determined by the Department of Recreation and Parks, assist with such repair or maintenance. The County shall conduct an annual inspection of the Licensed Area and prepare a list of required maintenance and repair items. The County's responsibilities under this Agreement are contingent upon the annual appropriation of funds necessary to perform such responsibilities.

8. INDEMNIFICATION. HCYP agrees to indemnify and hold the County harmless from any and all liabilities, expenses, suits, claims, and actions, including attorneys' fees and the County's cost of defense, in connection with the loss of life, personal injury, property damage, or loss of property (a) arising from or out of the condition of the Licensed Area; (b) arising from or out of the public's use or occupancy of the Licensed Area; (c) arising from or out of any work or activities performed on or with respect to the Licensed Area by HCYP, its agents, employees, licensees, contractors, or invitees; or (d) otherwise arising from HCYP's use of the Licensed Area.

9. INSURANCE. HCYP shall obtain and keep in force, at its own cost and expense,

the insurance listed in this Section. HCYP shall provide to the County copies of certificates of all such policies upon the execution of this Agreement and annually upon the anniversary of this Agreement.

(a) A comprehensive general liability insurance policy against loss or liability in connection with bodily injury or death or property damage or destruction in or upon the Licensed Area, or arising out of HCYP's operation and the use of the Licensed Area by HCYP and the public with minimum limits of One Million Dollars (\$1,000,000.00) for each occurrence. The policy shall name Howard County, Maryland as an Additional Insured. The policy shall include an endorsement for Fire Legal Liability for HCYP's use of the Office Area.

(b) Worker's compensation insurance covering Maryland jurisdiction for any employees;

(c) An all risk property insurance policy covering personal property owned by, or in the care of, HCYP. Howard County shall not be responsible for any damage to property owned by HCYP, its agents, employees, licensees, contractors, or invitees no matter what the cause of damage.

10. TERMINATION. Upon the termination of this Agreement or upon HCYP's termination of a portion of the Licensed Area, HCYP shall vacate all or such portion of the Licensed Area, as the case may be and leave it in a good and clean condition, free of all debris, trash, and personalty.

11. FINANCIAL RECORDS. HCYP shall maintain records of the expenses and revenues pertaining to the operation of the Licensed Area (including the snack bar concession) in accordance with generally accepted accounting practices and such records shall be available for inspection by the County at all reasonable times. Within ninety (90) days of the end of HCYP's fiscal year, HCYP shall provide the County with a reviewed statement of revenues and expenses for that fiscal year in accordance with generally accepted accounting principles.

12. GOVERNING LAW. This Agreement shall be deemed to be a contract made and delivered in the State of Maryland and shall be governed and construed in accordance with the laws of the State of Maryland.

13. AUTHORIZATION. HCYP represents and warrants that this Agreement has been approved by the Board of Directors and stockholders of HCYP and that the officers executing this Agreement have been duly authorized to bind HCYP.

14. CONFLICT OF INTEREST. HCYP certifies that the officers of HCYP have read and understand the provisions of Section 901(a) of the Howard County Charter dealing with conflicts of interest and Section 22.204 of the Howard County Code dealing with conflicts of interest, copies of which are attached hereto as Exhibit C.

15. NOTICES. Any notice to be given hereunder shall be sent as follows:  
In the Case of the County: In the Case of HCYP:

John Byrd, Chief, Parks and Programs Services,  
Department of Recreation and Parks  
7120 Oakland Mills Road

Thomas H Price III, Esquire  
Suite 110  
13321 New Hampshire Avenue

Columbia, Maryland 21046  
Telephone: 410-313-4640  
FAX: 410-313-4646  
jbyrd@co.ho.md.us

Silver Spring, Maryland 20904  
Telephone: 301-680-8300  
FAX: 301-680-0615

The contact for HCYP responsible for the daily operations of HCYP is the Executive Director of HCYP:

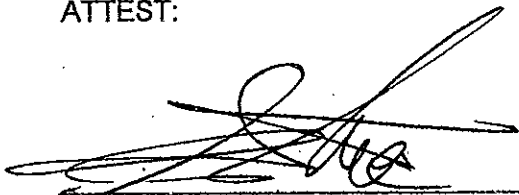
Mike Burroughs  
PO Box 471  
Ellicott City, Maryland 21041  
Telephone 443-472-2255  
hcyp-sports@verizon.net FAX 410-571-0508

HCYP and the County shall promptly update the notice information set forth in this paragraph as needed, from time to time.

16. ENTIRE AGREEMENT; AMENDMENT. This Agreement contains the entire understanding between HCYP and the County and shall be binding upon the parties and their successors and assigns. Any additions, modifications, or amendments to this Agreement may only be made in a writing executed by the County and HCYP.

**IN WITNESS WHEREOF**, the County and HCYP have caused their duly authorized officers to sign and seal this License and Agreement on the date first hereinabove written.

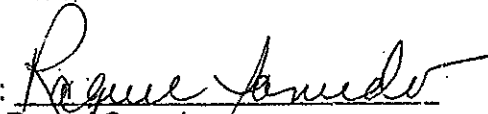
ATTEST:

  
Stephen J. Lee, Treasurer

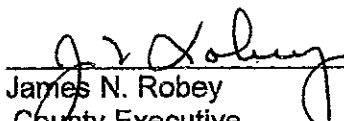
**THE HOWARD COUNTY YOUTH  
PROGRAM, INC.**

By:  (SEAL)  
John Hein, President


ATTEST:

By:   
Raquel Sanudo  
Chief Administrative Officer

**HOWARD COUNTY, MARYLAND**

By:   
James N. Robey  
County Executive

APPROVED: DEPARTMENT OF RECREATION AND PARKS

  
Gary Arthur, Director  
Office of Law  
March 2005



APPROVED: DEPARTMENT OF PUBLIC WORKS

James Irvin 4/6/05  
James Irvin, Director

APPROVED FOR SUFFICIENCY OF FUNDS:

Sharon Greisz 4/4  
Sharon Greisz, Director  
Department of Finance

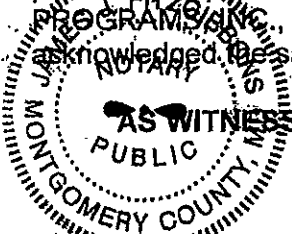
*Signatures and notaries continued on next page*

APPROVED FOR FORM AND LEGAL  
SUFFICIENCY: this 4th day of  
April, 2005

Barbara M. Cook  
Barbara M. Cook  
County Solicitor

STATE OF MARYLAND, ~~CITY~~/COUNTY OF MONTGOMERY, TO WIT:

I HEREBY CERTIFY that on this 29th day of March, 2005, before me  
the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid,  
personally appeared, John Hein, President of THE HOWARD COUNTY YOUTH  
PROGRAMS, INC., party to the within Amended and Restated License Agreement and he  
acknowledged the same to be the act of The Howard County Youth Programs, Inc.



AS WITNESS my Hand and Notarial Seal.

[Signature]  
Notary Public

My Commission Expires: 9/1/08

STATE OF MARYLAND, HOWARD COUNTY, TO WIT:

I HEREBY CERTIFY that on this 11th day of April, 2005, before me,  
the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid  
personally appeared James N. Robey, the County Executive for Howard County, Maryland, a  
party to the within Amended and Restated License Agreement who acknowledged the same to  
be the act of Howard County, Maryland.

AS WITNESS my Hand and Notarial Seal.

[Signature]  
Notary Public

My Commission Expires: 9/03

## EXHIBIT B

### AMENDED AND RESTATED LICENSE AGREEMENT

HCYP shall, at its cost, design and construct improvements to the "Office Area," the 170 square foot area of the Kiwanis-Wallis Recreation Center (the "Center") as shown on Exhibit A, in accordance with the County and State laws and regulations, to include, but not be limited to, the following:

1. The emergency exit door currently located in the Center shall be discontinued as a general building exit and shall become the primary access for the premises. This door or the adjacent window will contain a mail slot sufficiently large enough for HCYP to receive mail delivery from the United States Postal Service.

2. The concrete sidewalk to the access door to the premises will be extended straight out to the parking lot.

3. A new emergency exit door with all required electrical attachments shall be construed in the main perimeter wall adjacent to the premises. A concrete pad and sidewalk will be laid outside the new door. The downspout will be relocated as necessary so as not to interfere with the door.

4. The existing six foot opening into the premises from the main building will be replaced by the three foot interior door that is currently installed inside the premises. The County will remove the sprinkler head at this location at the County's cost.

5. One window will be added to the outside wall of the premises at the location where a window was originally constructed.

6. All existing interior walls in the premises will be removed to make one office room.

7. Heat and air conditioning will be supplied to the premises by an electrical wall unit to be installed in the wall opposite the entry door.

8. Subject to the County's approval of the design, size, and color, HCYP may, at its expense, place an identification sign at the outside entrance to the Office Area.

9. The County will designate one parking space for which HCYP may, at its expense, place a reserved sign.

10. The construction shall be completed in a timely manner in accordance with all requirements and stipulations of the Howard County Department of Licenses and Inspections.

11. The construction times shall be limited so as to not interfere with ongoing scheduled activities in the Kiwanis-Wallis Recreation Center.

**EXHIBIT C**  
**AMENDED AND RESTATED LICENSE AGREEMENT**

**Section 901. Conflict of Interest.**

(a) Prohibitions. No officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of any contract, job, work, or service for the County. No such officer or employee shall accept any service or thing of value, directly or indirectly, from any person, firm or corporation having dealings with the County, upon more favorable terms than those granted to the public generally, nor shall he receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County, or by any person in connection with any dealings with the County, or by any person in connection with any dealings with or proceedings before any branch, office, department, board, commission or other agency of the County. No such officer or employee shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of any type of bonds for County officers, employees or persons or firms doing business with the County. No such officer or employee shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work; provided, however, that the head of any department or board of the County may permit an employee to receive a reward publicly offered and paid for, for the accomplishment of a particular task.

(b) Rules of construction; exceptions by Council. The provisions of this Section shall be broadly construed and strictly enforced for the purpose of preventing officers and employees from securing any pecuniary advantages, however indirect, from their public associations, other than their compensation provided by law.

In order, however, to guard against injustice, the Council may, by resolution, specifically authorize any County officer or employee to own stock in any corporation or to maintain a business in connection with any person, firm or corporation dealing with the County, if, on full public disclosure of all pertinent facts to the County Council by such officer or employee, the Council shall determine that such stock ownership or connection does not violate the public interest.

The County Council may, by ordinance, delegate to the Howard County Ethics Commission the power to make such determinations and to authorize the ownership or connection. Any ordinance which delegates this power shall provide for procedures including a public hearing, and shall establish criteria for determining when the ownership or connection does not violate the public interest.

(c) Penalties. Any officer or employee of the County who willfully violates any of the provisions of this Section shall forfeit his office. If any person shall offer, pay, refund or rebate any part of any fee, commission, or other form of compensation to any officer or employee of the County in connection with any County business or proceeding, he shall, on conviction, be punishable by imprisonment for not less than one or more than six months or a fine of not less than \$100.00 or more than \$1,000.00, or both. Any contract made in violation of this Section may be declared void by the Executive or by resolution of the Council. The penalties in this Section shall be in addition to all other penalties provided by law.

**Section 22.204. Prohibited Conduct and Interests.**

(a) **Participation Prohibitions:** County official and employees subject to this subtitle shall not:

(1) Except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to the matter, participate on behalf of the county in any matter which would, to their knowledge, have a direct financial impact as distinguished from the public generally, on them; their spouse, parent, child, sibling or upon any business interest with which they are affiliated;

(2) Except as exempted by the county council pursuant to Section 901(b) of the Howard County Charter, hold or acquire an interest in a business entity that has or is negotiating a contract with the county or is regulated by the official or employee;

(3) Except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to the matter, participate in any matter involving a business entity with which they, their spouse, parent, child or sibling are negotiating or have an arrangement concerning prospective employment.

(b) **Employment Prohibitions:** Except as exempted by the County Council pursuant to section 901(b) of the Howard County Charter or when the employment or interest does not create an actual or apparent conflict of interest, officials and employees shall not:

(1) Be employed by:

(i) Any entity subject to their official authority;

(ii) Any entity subject to the authority of the Howard County agency, board or commission with which they are affiliated;

(iii) Any entity which is negotiating or has entered into a contract with the Howard County agency, board or commission with which they are affiliated.

(2) Represent any party for a fee, commission or other compensation before any county body;

(3) Within 1 year following termination of county service, act as a compensated representative of another in connection with any specific matter in which they participated substantially as a county official or employee.

The employment provisions listed above do not apply to:

(1) An official or employee who is appointed to a regulatory or licensing authority pursuant to a requirement that persons subject to its jurisdiction be represented in appointments to it;

(2) Subject to other provisions of law, a member of a board or commission who

